



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of § REINSTATEMENT
Registered Nurse License Number 698413 § AGREED ORDER
& Vocational Nurse License Number 181394 §
issued to SCOTT PHILLIP SANDIDGE §
§

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the Petition for Reinstatement, hereinafter referred to as the Petition, of Registered Nurse License Number 698413, and Vocational Nurse License Number 181394, held by SCOTT PHILLIP SANDIDGE, hereinafter referred to as Petitioner.

Petitioner waived notice and hearing and agreed to the entry of this Reinstatement Agreed Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on June 8, 2020.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of the law for retention of the license(s).
2. Petitioner waived notice and hearing, and agreed to the entry of this Reinstatement Agreed Order.
3. Petitioner received a Certificate in Vocational Nursing from Lone Star College - Montgomery, Conroe, Texas, on July 20, 2001. Petitioner received an Associate Degree in Nursing from Lone Star College Tomball, Tomball, Texas, on May 9, 2003. Petitioner was licensed to practice vocational nursing in the State of Texas on September 18, 2001. Petitioner was licensed to practice professional nursing in the State of Texas on July 15, 2003.

4. Petitioner's nursing employment history includes:

| | | |
|--------|-----|---|
| 9/2001 | LVN | Conroe Regional Medical Center Conroe, Texas |
| 8/2001 | RN | Conroe Regional Medical Center Conroe, Texas |

Petitioner's nursing employment history continued:

| | | |
|----------------|----------------------------|-------------------------------------|
| 2004 – 2005 | RN | HealthSouth The Woodlands, Texas |
| 2005 - Present | Not employed in nursing | |

5. On or about October 22, 2010, Petitioner's license(s) to practice nursing in the State of Texas was/were Revoked through an Order of the Board. A copy of the October 22, 2010, Order is attached and incorporated herein by reference as part of this Reinstatement Agreed Order.
6. On or about September 12, 2019, Petitioner submitted a Petition for Reinstatement of License to practice nursing in the State of Texas.
7. Petitioner presented the following in support of said petition:
 - A. Letter of support, dated August 22, 2019, from Stephen P. Maniscalco, M.D., who has known Petitioner for over 17 years. He first met Petitioner while in residency at Baylor College of Medicine in 2002. Petitioner was working as an ICU nurse. Petitioner was one of the most skilled and competent nurse that he had the pleasure of working with. Petitioner had good judgment and excellent clinical skill sets. Petitioner's work ethics are commendable. Petitioner had talked to him about some of his pending court issues.
 - B. Letter of support, from Audra Dear, ACNP-BC, has known Petitioner for 15 years when they met at Conroe Regional Medical Center. Petitioner was a great co-worker who exhibited incredible knowledge and teamwork. He handled himself as a professional who was liked by everyone he came in contact with. She was with him during the indictments and remain a close friend during this time.
 - C. Letter of support, dated August 21, 2019, from Fred Barnette, FNP. Mr. Barnette has known Petitioner for over 30 years, and he has been a close friend. Petitioner is a responsible, hard-working and courteous person; he will be an asset to any organization he is associated with.
 - D. Letter of support, dated August 21, 2019, from Kevin Mims, they have worked together either directly or indirectly for the past 11 years. Petitioner was hired by a company he purchased, Texas Truck Works. Petitioner worked for Mr. Mims for several years before he sold Imagi-Motive to him and his new business partner. While Mr. Mims no longer employs Petitioner, he sees him daily interacting with customers and is sure that Petitioner will perform wonderfully in a new roll. Both patient and employer alike should be happy to have Petitioner in their service.
 - E. Documentation of the required continuing education contact hours.

8. On or about April 16 and 23, 2020, Respondent underwent a forensic psychological evaluation completed by Kit W. Harrison, PH.D. The evaluation show Petitioner does not report ever having used thoughts or fantasies involving children for sexual arousal, and he does not report ever having attempted to engage a child in sex activity ad he does not report molesting a child. Further, he has always known it was wrong to engage in sex activity with an underage person. With regard to any sexual obsessions or addictions, it was found that he does not report currently being preoccupied with sex. Dr. Harrison's conclusion is that Petitioner does not currently present with significant risk factors which would impair his abilities as a nurse. Although no modifications or accommodations will likely be necessary for this Petitioner, results are subject to change with any additional information.
9. The Executive Director considered evidence of Petitioner's past behavior in light of the factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for relicensure.
10. There is no evidence of any subsequent criminal conduct.
11. The Executive Director considered evidence of Petitioner's past criminal conduct in light of the considerations and criteria provided in 22 TEX. ADMIN. CODE §§213.28 & 213.33, and, as applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.
12. Relicensure of Petitioner poses no direct threat to the health and safety of patients or the public provided Petitioner complies with the stipulations outlined in this Order.
13. The Executive Director's review of Petitioner's eligibility for relicensure has been made on the basis of Petitioner's disclosures.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. This reinstatement is made pursuant to Sections 301.453(c) and 301.467, Texas Occupations Code and 22 TEX. ADMIN. CODE §213.26.
3. The Board may relicense an individual upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, if the Board is satisfied that the individual is able to consistently conform his conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.
4. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was

imposed upon consideration of the factors set out in 22 TEX. ADMIN. CODE §213.28 and evaluating the direct relationship to nursing according to 22 TEX. ADMIN. CODE §213.28 and, as applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.

5. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).
6. Pursuant to Section 301.463(d), Texas Occupations Code, this Agreed Order is a settlement agreement under Rule 408, Texas Rules of Evidence, in civil or criminal litigation.

TERMS OF ORDER

I. REINSTATEMENT OF LICENSURE AND APPLICABILITY

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that the petition of SCOTT PHILLIP SANDIDGE for reinstatement of license to practice nursing in the State of Texas be **GRANTED** and Registered Nurse License Number 698413, and Vocational Nurse License Number 181394 is/are hereby **REINSTATED** in accordance with the terms of this Order.

- A. Until successfully completed, this Order SHALL apply to any and all future licenses issued to PETITIONER to practice nursing in the State of Texas.
- B. Until successfully completed, this Order SHALL be applicable to PETITIONER'S nurse licensure compact privileges, if any, to practice nursing in the State of Texas.
- C. As a result of this Order, PETITIONER'S license(s) will be designated "single state" as applicable and PETITIONER may not work outside the State of Texas in another nurse licensure compact party state using a Texas compact license.

II. COMPLIANCE WITH LAW

While under the terms of this Order, PETITIONER agrees to comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and

Regulations Relating to Nursing Education, Licensure and Practice, 22 TEX. ADMIN. CODE §§211.1 *et seq.*, and this Reinstatement Agreed Order.

III. REQUIREMENTS FOR REFRESHER COURSE, EXTENSIVE ORIENTATION, OR NURSING PROGRAM OF STUDY IN PROFESSIONAL REGISTERED NURSING

Prior to practicing as a registered nurse in the State of Texas, PETITIONER SHALL:

- A. **Apply for a Six Month Temporary Permit to Complete Refresher Course, Extensive Orientation, or Nursing Program of Study in Professional Registered Nursing** for the limited purpose of completing a refresher course, extensive orientation, or nursing program of study in professional registered nursing. The application for the Six Month Temporary Permit is available on the Board's website (www.bon.texas.gov) under Forms / Applications / Six Month Permits. PETITIONER SHALL NOT, in any way, attempt to use the temporary permit for any purpose other than completing the refresher course, extensive orientation, or nursing program of study in professional registered nursing.
- B. **Successfully complete a Board approved refresher course, extensive orientation, or nursing program of study for professional registered nursing. Petitioner MUST obtain Board approval of the nursing refresher course, extensive orientation, or nursing program, as applicable, prior to enrollment.** In order for the course to be approved, the target audience shall include registered nurses and the course's content shall, at a minimum, include: 1) Review of NPA, Rules, Position Statements; 2) Determination of Individual Scope of Practice and role in patient safety; 3) Review of the nursing process to include assessment, planning, implementation, and evaluation; 4) Pharmacology review; 5) Medication administration; 6) Documentation, quality assurance, and legal implication for nursing practice; and, 7) Documentation of current CPR certification prior to beginning precepted clinical learning experience. The course must contain no less than a total of 80 hours of clinical practice providing direct patient care supervised by a qualified registered nurse instructor who meets or exceeds the Board's minimum criteria for eligibility as an instructor. Home study courses and video programs will not be approved.
- C. **Upon completion of the refresher course, extensive orientation, or nursing program of study for professional registered nursing,** PETITIONER SHALL return the temporary permit to the Board's office and PETITIONER SHALL CAUSE the sponsoring institution to notify the Board, on a form provided by the

Board, of Petitioner's successful completion of the refresher course, including the required 80 hours of supervised practice.

- D. **Upon verification of successful completion of the conditions** as set out in Paragraphs A through C of this Section, PETITIONER SHALL submit a completed License Reactivation Form for Registered Nurses, which is available on the Board's website (www.bon.texas.gov) under Forms / Applications / Renewals / Reactivation Renewal. PETITIONER shall pay all re-registration fees and, subject to meeting all other requirements for licensure in Texas, shall be issued the applicable license to practice registered nursing in the State of Texas, which shall be subject to the terms of this Order.

IV. **REMEDIAL EDUCATION COURSE(S)**

In addition to any continuing education requirements the Board may require for licensure renewal, PETITIONER SHALL successfully complete the following remedial education course(s) **within one (1) year of relicensure, unless otherwise specifically indicated:**

- A. **A Board-approved course in Texas nursing jurisprudence and ethics** that shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft, and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. Home study and video programs will not be approved.
- B. **The course "Sharpening Critical Thinking Skills,"** a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension.

In order to receive credit for completion of this/these course(s), PETITIONER SHALL CAUSE the instructor to submit a Verification of Course Completion form or SHALL submit the continuing education certificate, as applicable, to the attention of Monitoring at the Board's office. PETITIONER SHALL first obtain Board approval of any course prior to enrollment if the course is not being offered by a pre-approved provider. *Information about Board-approved courses and Verification of Course Completion forms are available from the Board at www.bon.texas.gov/compliance.*

V. **EMPLOYMENT REQUIREMENTS**

In order to complete the terms of this Order, PETITIONER must work as a nurse in the State of Texas, providing direct patient care in a clinical healthcare setting, for a minimum of sixty-four (64) hours per month for eight (8) quarterly periods [two (2) years] of employment. This requirement will not be satisfied until eight (8) quarterly periods of employment as a nurse have elapsed. Periods of unemployment or of employment that do not require the use of a registered nurse (RN) or a vocational nurse (LVN) license, as appropriate, will not apply to this period and will not count towards completion of this requirement.

- A. **Notifying Present and Future Employers:** PETITIONER SHALL notify each present employer in nursing and present each with a complete copy of this Order, including all attachments, if any, within five (5) days of receipt of this Order. While under the terms of this Order, PETITIONER SHALL notify all future employers in nursing and present each with a complete copy of this Order, including all attachments, if any, prior to accepting an offer of employment.
- B. **Notification of Employment Forms:** PETITIONER SHALL CAUSE each present employer in nursing to submit the Board's "Notification of Employment" form to the Board's office within ten (10) days of receipt of this Order. PETITIONER SHALL CAUSE each future employer to submit the Board's "Notification of Employment form" to the Board's office within five (5) days of employment as a nurse.
- C. **Direct Supervision:** For the first year [four (4) quarters] of employment as a Nurse under this order, PETITIONER SHALL be directly supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse. Direct supervision requires another nurse, as applicable, to be working on the same unit as PETITIONER and immediately available to provide assistance and intervention. PETITIONER SHALL work only on regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

- D. **Indirect Supervision:** For the remainder of the stipulation/probation period, PETITIONER SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational Nurse, **who is on the premises.** The supervising nurse is not required to be on the same unit or ward as PETITIONER, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years of experience in the same or similar practice setting to which the PETITIONER is currently working. PETITIONER SHALL work only regularly assigned, identified and predetermined unit(s). PETITIONER SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. PETITIONER SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.
- E. **Nursing Performance Evaluations:** PETITIONER SHALL CAUSE each employer to submit, on forms provided to the PETITIONER by the Board, periodic reports as to PETITIONER'S capability to practice nursing. These reports shall be completed by the individual who supervises the PETITIONER and these reports shall be submitted by the supervising individual to the office of the Board at the end of each three (3) month quarterly period for eight (8) quarters [two (2) years] of employment as a nurse.

VI. RESTORATION OF UNENCUMBERED LICENSE(S)

Upon full compliance with the terms of this Reinstatement Agreed Order, all encumbrances will be removed from PETITIONER'S license(s) and/or privilege(s) to practice nursing in the State of Texas and, subject to meeting all existing eligibility requirements in Texas Occupations Code Chapter 304, Article III, PETITIONER may be eligible for nurse licensure compact privileges, if any.

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PETITIONER'S CERTIFICATION

I understand this Order is conditioned upon the accuracy and completeness of my petition and disclosures. I further understand that subsequently discovered discrepancies in my petition and/or disclosures will result in investigation and possible disciplinary action, up to revocation of my license(s).

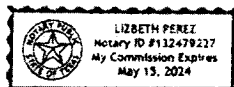
I have reviewed this Order. I understand that I have the right to legal counsel prior to signing this Order. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to reinstating my license(s) to practice nursing in the state of Texas. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including REVOCATION of my license(s) and/or nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 23 day of June, 2020

SCOTT PHILIP SANDIDGE, PETITIONER

Sworn to and subscribed before me this 23 day of June, 2020.

SEAL



Lizbeth Perez
Notary Public in and for the State of Texas

Approved as to form and substance

Joyce Stamp Lilly, Attorney for Petitioner

Signed this 23 day of June, 2020

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Reinstatement Agreed Order that was signed on the 23rd day of June, 2020, by SCOTT PHILLIP SANDIDGE, Registered Nurse License Number 698413, and Vocational Nurse License Number 181394, and said Reinstatement Agreed Order is final.

Effective this 18th day of August, 2020.



Katherine A. Thomas, MN, RN, FAAN
Executive Director on behalf
of said Board

DOCKET NUMBER 507-10-3286

IN THE MATTER OF
PERMANENT CERTIFICATE
NUMBERS 698413 and 181394
ISSUED TO
SCOTT PHILIP SANDIDGE

§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARING

OPINION AND ORDER OF THE BOARD

TO: SCOTT PHILIP SANDIDGE
C/O CATHERINE TABOR, ATTORNEY
1608 HARTFORD ROAD, SUITE 100
AUSTIN, TX 78703-3314

THOMAS H. WALSTON
ADMINISTRATIVE LAW JUDGE
300 WEST 15TH STREET
AUSTIN, TEXAS 78701

At the regularly scheduled public meeting on October 21-22, 2010, the Texas Board of Nursing (Board) considered the following items: (1) The Proposal for Decision (PFD) regarding the above cited matter; (2) Staff's recommendation that the Board adopt the PFD regarding the vocational and registered nursing licenses of Scott Philip Sandidge without changes; and (3) Respondent's recommendation to the Board regarding the PFD and order, if any.

The Board finds that after proper and timely notice was given, the above styled case was heard by an Administrative Law Judge (ALJ) who made and filed a PFD containing the ALJ's findings of facts and conclusions of law. The PFD was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed by any party.

The Board, after review and due consideration of the PFD, Staff's recommendations, and Respondent's presentation during the open meeting, if any, adopts all of the findings of fact and conclusions of law of the ALJ contained in the PFD as if fully set out and separately stated herein. All proposed findings of fact and conclusions of law



I do hereby certify this to be a complete, accurate and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Thomas H. Walston
Executive Director of the Board

filed by any party not specifically adopted herein are hereby denied.

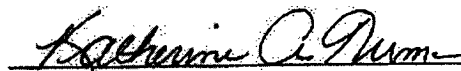
IT IS, THEREFORE, ORDERED THAT Permanent Certificate Numbers 698413 and 181394, previously issued to SCOTT PHILIP SANDIDGE, to practice nursing in the State of Texas be, and the same are hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Numbers 698413 and 181394, previously issued to SCOTT PHILIP SANDIDGE, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice nursing in the State of Texas.

Entered this 2nd day of October, 2010.

TEXAS BOARD OF NURSING



KATHERINE A. THOMAS, MN, RN
EXECUTIVE DIRECTOR FOR THE BOARD



Attachment: Proposal for Decision; Docket No. 507-10-3286 (June 1, 2010).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

June 1, 2010

VIA INTER-AGENCY

Katherine A. Thomas, M.N., R.N.
Executive Director
Texas Board of Nursing
333 Guadalupe, Tower III, Suite 460
Austin, Texas 78701

RE: Docket No. 507-10-3286; In the Matter of Permanent Certificate
Numbers 698413 and 181394 Issued to Scott Philip Sandidge

Dear Ms. Thomas:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that reads "Thomas H. Walston".

Thomas H. Walston
Administrative Law Judge

THW:nl

Enclosures

XC: Nikki Hopkins, Staff Attorney, TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - VIA INTER-AGENCY
Dina Flores, Legal Assistant TBN, 333 Guadalupe, Tower III, Ste. 460, Austin, TX 78701 - (with 1 CD; Certified Evidentiary Record) - VIA INTER-AGENCY
Catherine Tabor, Attorney at Law, 1608 Hartford Road, Suite 100, Austin, TX 78703-3314-VIA REGULAR MAIL

Post Office Box 13025 ♦ William P. Clements Building ♦ Austin Texas 78711-3025
(512) 475-4993 300 West 15th Street, Suite 502 ♦ Docket (512) 475-3445 Fax (512) 475-4994
<http://www.soah.state.tx.us>

SOAH DOCKET NO. 507-10-3286

IN THE MATTER OF § BEFORE THE STATE OFFICE
PERMANENT CERTIFICATE §
NUMBERS 698413 AND 181394 § OF
ISSUED TO §
SCOTT PHILIP SANDIDGE § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Board of Nursing (Staff/Board) seeks to revoke the registered nurse license and the vocational nurse license of Scott Philip Sandidge (Respondent) for violating the Nursing Practice Act (the Act), TEX. OCC. CODE ANN., Chapter 301. Specifically, Staff alleged that Respondent received deferred adjudication, community supervision, and a 10-year probated sentence after pleading guilty to the felony offense of Indecency with a Child by Sexual Contact. In addition, Staff alleged that Respondent was required to register under the Sex Offender Registration Program. Staff filed a Motion for Summary Disposition with supporting evidence to prove its allegations. The Administrative Law Judge (ALJ) granted summary disposition in favor of Staff, and by this Proposal for Decision, the ALJ recommends that the Board revoke Respondent's licenses.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Jurisdiction and notice were not contested, so those matters are addressed in the Findings of Fact and Conclusions of Law without further discussion.

Staff filed Formal Charges against Respondent on June 16, 2008, and Respondent timely filed an answer. On March 23, 2010, Staff served Respondent with a Notice of Hearing for a hearing on the merits scheduled for June 8, 2010. On March 29, 2010, Staff served Respondent with a First Amended Notice of Hearing, which corrected Respondent's license numbers.

On April 16, 2010, Staff filed a Motion for Summary Disposition. Pursuant to 1 TEX. ADMIN. CODE (TAC) §§ 155.103(c)(3) and 155.505, the deadline for Respondent to file a response to the Motion for Summary Disposition was May 3, 2010. Respondent did not file a response, and on May 10, 2010, the ALJ issued Order No. 1, granting Staff's motion and cancelling the hearing on the merits. Later on May 10, 2010, counsel for Respondent filed a motion for reconsideration of Order

No. 1 and for leave to file a late response. The ALJ entered Order No. 2 on May 11, 2010, extending the time for Respondent to file a response until May 14, 2010. As of May 28, 2010, Respondent still had not filed a response to Staff's Motion for Summary Disposition. Therefore, the ALJ issued Order No. 3, confirming that Staff's Motion for Summary Disposition was granted. The record closed that same date.

II. DISCUSSION

A. Summary Disposition Evidence

Respondent holds a Registered Nurse license, certificate number 698413, and a Vocational Nurse license, certificate number 181394. Staff provided summary disposition evidence that showed the following: On January 3, 2008, the presiding judge of the District Court of Montgomery County, Texas, 221st Judicial District, in Cause No. 06-03-03048-CR, entered a Deferred Adjudication Judgment and Order against Respondent. This Deferred Adjudication Judgment and Order stated that Respondent Scott Philip Sandidge appeared in person and by counsel, and Respondent entered a plea of guilty to the offense of "INDECENCY WITH A CHILD BY SEXUAL CONTACT." The offense was committed on July 4, 2004. Among other things, the Deferred Adjudication Judgment and Order: (1) deferred further proceedings without entering an adjudication of guilt, pursuant to Article 42.12 of the Code of Criminal Procedure; (2) placed Respondent on Community Supervision and probation for a period of ten years; and (3) required Respondent to register with his local law enforcement authority in the "Sex Offender Registration Program," pursuant to Chapter 62 of the Texas Code of Criminal Procedure.

As noted previously, Respondent did not file a response to Staff's Motion for Summary Disposition, offer summary disposition evidence in his own behalf, or otherwise challenge Staff's summary disposition evidence.

B. Applicable Law

The Board may take disciplinary action against a licensee for placement on deferred adjudication community supervision for a felony, and for unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure a patient or the public. TEX. OCC. CODE § 301.452 (b)(3) and (10) states:

(b) A person is subject to denial of a license or to disciplinary action under this subchapter for: . . .

(3) a conviction for, *or placement on deferred adjudication community supervision or deferred disposition* for, a felony or for a *misdemeanor involving moral turpitude*; [or] . . .

(10) unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure a patient or the public; . . .” (Emphasis added.)

In addition, the Board’s rules at 22 TAC § 213.27(c)(1)-(2) provide that an order of deferred adjudication of a felony is conclusive evidence of guilt of the felony, and a licensee guilty of a felony is conclusively deemed to have committed unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure a patient or the public, as provided in TEX. OCC. CODE § 301.452 (b)(10).

Further, TEX. OCC. CODE § 301.4535(a)(5), (16) and (b) requires the Board to revoke the license of a nurse who pleads guilty to indecency with a child or to an offense that requires the defendant to register as a sex offender:

(a) The board shall suspend a nurse’s license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of: . . .

(5) continuous sexual abuse of a young child or children under Section 21.02, Penal Code or *indecency with a child under Section 21.11, Penal Code*; . . . [or]

(16) an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; . . .

(b) On final conviction *or a plea of guilty or nolo contendere* for an offense listed in Subsection (a), the board, as appropriate, may not issue a license to an applicant, shall refuse to renew a license, *or shall revoke a license.*¹ (Emphasis added.)

¹ Section 301.4535 applies to a person who is initially convicted of an offense or placed on deferred adjudication after a plea of guilty or nolo contendere for an offense on or after September 1, 2005.

C. ALJ's Analysis

An ALJ may issue a proposal for decision on all or part of a contested case by summary disposition if the summary disposition evidence shows there is no genuine issue as to any material fact and a party is entitled to a decision in its favor as a matter of law. 1 TAC § 155.505(a). Staff provided competent summary disposition evidence that on January 3, 2008, in Cause No. 06-03-03048-CR, Respondent entered a plea of guilty to the offense of "INDECENCY WITH A CHILD BY SEXUAL CONTACT," and a Deferred Adjudication Judgment and Order was entered against him. This Deferred Adjudication Judgment and Order placed Respondent on Community Supervision for a period of ten years and required Respondent to register as a sex offender pursuant to Chapter 62 of the Texas Code of Criminal Procedure.

Because Respondent pled guilty to the felony offense of indecency with a child, and because Respondent was ordered to register as a sex offender, TEX. OCC. CODE § 301.4535(a)(5), (16) and (b) require the Board to revoke Respondent's nursing licenses. Further, under 22 TAC § 213.27(c)(1)-(2), the order of deferred adjudication for a felony is conclusive evidence of Respondent's guilt, and Respondent is conclusively deemed to have engaged in unprofessional or dishonorable conduct likely to deceive, defraud, or injure a patient or the public, in violation of TEX. OCC. CODE § 301.452(b)(10).²

Therefore, based on the summary disposition evidence and the applicable law and rules, the ALJ granted Staff's motion for summary disposition and recommends that the Board revoke Respondent's nursing licenses.

² TEX. OCC. CODE § 301.452 (b)(3) does not require a conviction of a felony for the Texas Board of Nursing to take disciplinary action; rather, it expressly allows disciplinary action based on an order of deferred adjudication. Likewise, TEX. OCC. CODE § 301.4535(b) does not require a conviction but instead expressly requires the Board to revoke a license based on a plea of guilty to certain offenses, including the offense for which Respondent pled guilty. Therefore, analysis under TEX. OCC. CODE § 53.021(c) and (d), which limits the treatment of certain deferred adjudications as a conviction, is not required.

III. FINDINGS OF FACT

1. Scott Philip Sandidge (Respondent) holds a registered nurse license (Certificate Number 698413) and a vocational nurse license (Certificate Number 181394) issued by the Texas Board of Nursing (the Board).
2. On January 3, 2008, Respondent entered a plea of guilty to the offense of "INDECENCY WITH A CHILD BY SEXUAL CONTACT" in Cause No. 06-03-03048-CR, pending in the District Court of Montgomery County, Texas, 221st Judicial District. Respondent committed the offense on July 4, 2004.
3. On January 3, 2008, after Respondent pleaded guilty, the presiding judge of the District Court of Montgomery County, Texas, 221st Judicial District, in Cause No. 06-03-03048-CR, entered a Deferred Adjudication Judgment and Order against Respondent.
4. The Deferred Adjudication Judgment and Order: (1) deferred further proceedings without entering an adjudication of guilt pursuant to Article 42.12 of the Code of Criminal Procedure; (2) placed Respondent on Community Supervision and probation for a period of ten years; and (3) required Respondent to register with his local law enforcement authority in the "Sex Offender Registration Program," pursuant to Chapter 62 of the Texas Code of Criminal Procedure.
5. Staff for the Board served Respondent with formal charges and a notice of hearing that stated the day, time, and location of the hearing, referenced the applicable law, and contained a short, plain statement of the facts asserted against him.
6. On April 16, 2010, Staff filed a Motion for Summary Disposition against Respondent with supporting summary disposition evidence.
7. The deadline for Respondent to file a response to the Motion for Summary Disposition initially was May 3, 2010, and was then extended until May 14, 2010.
8. Respondent did not file a response to Staff's Motion for Summary Disposition.
9. The ALJ granted Staff's Motion for Summary Disposition on May 28, 2010.

IV. CONCLUSIONS OF LAW

1. The Texas State Board of Nursing (Board) has jurisdiction to discipline its licensees under TEX. OCC. CODE §§ 301.452 and 301.4535.
2. The State Office of Administrative Hearings has jurisdiction to conduct this contested case hearing and issue a proposal for decision under TEX. GOV'T CODE ANN. ch. 2001.

3. Respondent received proper notice of the hearing as required by TEX. GOV'T CODE ANN. § 2001.052.
4. Respondent is subject to discipline by the Board for having pled guilty to a felony offense. TEX. OCC. CODE § 301.4535(b).
5. Respondent is subject to discipline by the Board for violating Act §§ 301.452(b)(3) and (10) and 301.4535(8) and 22 TEX. ADMIN. CODE § 217.12.
6. Because Respondent pled guilty to the felony offense of indecency with a child and because Respondent was required to register as a sex offender under the Texas Code of Criminal Procedure, Chapter 62, the Board is required to revoke Respondent's nursing licenses by Tex. Occ. Code § 301.4535(a)(5), (16) and (b).
7. Based upon the Findings of Fact and Conclusions of Law, the Board should revoke Respondent's registered nurse license, Certificate Number 698413, and Respondent's vocational nurse license, Certificate Number 181394.

SIGNED June 1, 2010



THOMAS H. WALSTON

ADMINISTRATIVE LAW JUDGE

STATE OFFICE OF ADMINISTRATIVE HEARINGS